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January 24, 2006

Via Overnight Mail

Secretary – for filing
Surface Transportation Board
1925 K Street
NW
Washington, D.C. 20006



Re: Surface Transportation Board
Petition For Declaratory Order
Finance Docket No. 34818
Rails to Trails Conservancy, Jersey City & Pennsylvania
Railroad Harsimus Stem Embankment Coalition
(Petitioners)
Our File No. 319.9405

215646

Dear Sir:

Enclosed is the Verified Statement of John J. Curley bearing original signature, which was part of the filing on behalf of the City of Jersey City made on Monday, January 23, 2006.

Thank you for your attention in this matter.

Very truly yours,


Jennifer J. Bogdanski

Encl.

cc: Joanne Monahan, Esq. (w/out Encl.)
Charles Montange, Esq. (w/out Encl.)

ENTERED
Office of the Secretary of the
Surface Transportation Board

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 34818

Rails to Trails Conservancy,
Jersey City, and
Pennsylvania Railroad Harsimus Stem
Embankment Coalition, petitioners -
Petition for a Declaratory Order



VERIFIED STATEMENT OF
JOHN J. CURLEY

I, John J. Curley, make this Verified Statement in opposition to the developer's request for a 20 day extension to respond to the Petition for a Declaratory Order filed by petitioners the City of Jersey City, et al. in the above-captioned proceeding.

1. I am special counsel for the City of Jersey City, Jersey City Historic Preservation Commission and Joanne Monahan (Assistant City Counsel) in litigation brought by eight limited liability companies controlled by developer Steven Hyman (the "Developer") who claims to hold property interests acquired by from Conrail to the portion of the Harsimus Branch containing the Sixth Street Embankment.

2. A Petition has been filed with the Surface Transportation Board for a declaratory judgment that the Surface Transportation Board has jurisdiction over the railroad property at issue in this proceeding.

3. The Developer is seeking a 20 day extension of time in

which to respond to the Petition.

4. The Developer proposes to develop the Embankment property for residential purposes through the construction of one and two family homes, which is in accordance with the zoning of the area. The construction of the residential units necessitates the demolition of the remaining railroad structures and the embankment as the homes are to be constructed at grade.

5. The Developer has filed several site plan and subdivision applications with the Planning Board of the City of Jersey City for the residential development. The applications before the Planning Board have been prosecuted with the threat of an automatic approval in the event of delay of decision beyond the statutory time period for planning board action. Moreover, a court order prevented the Planning Board from denying the application as to the property located on Monmouth Street between Fifth and Sixth Streets on the basis of possible Federal jurisdiction. This parcel is designated as Block 415, Lot 50 on the Jersey City tax assessment map. Record title to the parcel is held by 415 Brunswick Street, L.L.C. by a quitclaim deed from Conrail made without a termination of Surface Transportation Board jurisdiction. Within the last five days, and after service of the Petition for Declaratory Relief upon the developer, the developer has demolished and removed a stone pier railroad structure from this parcel.

6. The old stone railroad pier or stanchion was demolished

as part of site preparation on the parcel for a change to non-rail use. This pier or stanchion would probably have been reused if a light rail system were to be built on the right of way as contemplated by the City of Jersey City.

7. If the Developer is granted the requested extension, these construction activities will likely continue. One additional stone pier is on the parcel in question. Furthermore, there are approximately seven more piers or stanchions which formerly supported rail tracks on the adjacent parcel on Newark Avenue (Block 446, Lot 18A) that Conrail conveyed by quitclaim deed to the same developer under the name of 446 Newark Avenue, L.L.C. These pier structures are not protected by historic landmark designation, but are clearly structural components of the elevated rail system leading to the embankment running along Sixth Street and were in use until at least 1992. Unless restrained, the developer would be able to demolish and remove these rail structures before submitting an answer to the pending Petition.

8. The Developer has refused to grant the City of Jersey City any extensions of time to reply to summary judgment motions filed in pending state court actions. The purpose of these motions has been to obtain approvals for subdivision and demolition activities in order to establish non-rail use of the land purchased from Conrail without termination of the Surface Transportation Board's jurisdiction. It is my belief that the developer and

Conrail intentionally delayed the City of Jersey City's appraisal inspections to slow down the City's acquisition process. For example, a letter from Conrail's attorney on June 17, 2005 promised access for appraisal inspections after July 15, 2005 stating that Conrail was in the process of moving its offices in New Jersey and needed time. However, Conrail delivered the quitclaim deeds to the developer on July 12, 2005 without notifying the City that it was about to complete a sale of the properties. It was only in reply to a follow up appraisal inspection request that Conrail's attorney wrote on July 18, 2005 that the property had been sold. The developer then refused the City access to conduct its appraisal inspection. The City of Jersey City was forced to apply to the court for an order against the developer for access. The land use approval litigation in the state court was then commenced by the developer. The entire strategy being pursued by the developer is based upon speed in the hope that he can just outrun any opposition.

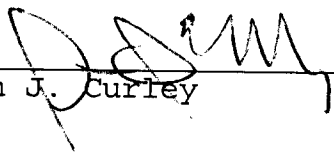
9. Since its acquisition of the properties, the developer has never provided any proof to the City that the property has undergone abandonment proceedings before the Surface Transportation Board or is exempt from this requirement, and thereby settle the jurisdictional questions surrounding this dispute.

10. As set forth in greater detail in my Verified Statement accompanying the Petition to the Surface Transportation Board,

immediate action by the Surface Transportation Board is required to protect its jurisdiction over the embankment and to prevent the destruction of a State and local historic landmark that is eligible for listing on the National Register of Historic Places. The developer's request for an extension of time to respond is yet another tactic being used against the City of Jersey City in order for the developer to carry out his plan to devote the land to non-rail use. Once accomplished, demolition of the rail piers cannot be undone, thereby rendering the City of Jersey City and the Surface Transportation Board in effect powerless.

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 21, 2006.



John J. Curley